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10/792,240	03/03/2004	Sumihito Konishi	17518	4767

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EXAMINER	
SMITH, PHILIP ROBERT	
ART UNIT	**PAPER NUMBER**
3739	

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/792,240	KONISHI, SUMIHITO	
	Examiner	Art Unit	
	Philip R. Smith	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/3/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

[01] The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

[02] Claim 2 is objected to because of grammatical informalities. Appropriate correction is required. Claim 2 is further objected to for reciting that "the information creating portion has an image-read-out control portion provided in the endoscopic system." Claim 1 recites "the information creating portion" and "the endoscopic system" as separate and non-overlapping elements. The recited "image-read-out control portion" appears to compose both. Appropriate correction is required.

[03] The following lack antecedent basis in the claims:

[03a] "the hospital network ("database")" of claim 8.

[04] The term "an anesthesia apparatus" in claim 4 appears to replicate the previously recited "anesthesia-apparatus related system," as the former has no independent basis in the specification.

[05] Claims 4 & 5 both recite "a centralized operation panel I/F," composing separate and non-overlapping elements. Appropriate correction is required.

Claim Rejections - 35 USC § 102

[06] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

[07] Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Shibata (2004/0044269).

[08] With regard to claim 1: Shibata discloses an endoscopic surgical system, comprising:

[08a] an endoscopic system ("2") provided in an operating room and usable with an anesthesia-apparatus related system ("patient monitoring apparatus 4," [0044]) connected to a predetermined communication circuit;

[08b] a transceiver provided in the anesthesia-apparatus related system ("4"), which can send and receive information; and

[08c] an information creating portion ("image filing apparatus 3," [0028]) for creating third information by associating first information sent from the anesthesia-apparatus related system ("4") through the transceiver and second information detected in the endoscopic system ("2") with a same patient.

[09] With regard to claims 2 & 16: Shibata further discloses that:

[09a] the anesthesia-apparatus related system ("4") has an anesthesia information recording portion ("ROM 4b," for chronologically and

sequentially recording anesthesia related information, which is the first information related to anesthesia in an operation;

[09b] the endoscopic system ("2") has an image recording portion for chronologically and sequentially recording an operated-part image information, which is the second information of the patient;

[09c] the transceiver having a communication portion for communicating between the anesthesia-apparatus related system ("4") and the endoscopic system ("2"); and

[09d] an image-read-out control portion provided in the endoscopic system ("2") for reading out and outputting to the communication portion operated-part image information recorded in the image recording portion based on time information communicated from the anesthesia-apparatus related system ("4") by the communication portion and a recording control portion provided in the anesthesia-apparatus related system ("4") for controlling the anesthesia information recording portion so that the operated-part image information sent by the image-read-out control portion from the endoscopic system ("2") to the anesthesia-apparatus related system ("4") through the communication portion can be associated with the anesthesia related information of a same patient and can be recorded as the third information (see Figures 9 & 10, which show time correlated collection of image and biological data).

[10] With regard to claim 3: Shibata further discloses that the anesthesia-apparatus related system ("4") is provided in each of multiple operating rooms separately and is connected to a hospital network ("database," [0073]) managed by a server over a communication circuit.

[11] With regard to claim 4: Shibata further discloses that the anesthesia-apparatus related system ("4") has a heart rate measuring instrument ("electrode section 14," [0044]), a sphygmomanometer ("cuff 13," [0044]) and an oxygen saturation measuring instrument ("probe 15," [0044]); the information creating portion ("3") being a CPU ("CPU 4a," [0044]); and the transceiver including a centralized operation panel I/F (composing "keyboard I/F 6i," [0039]), a network I/F ("communication interface 6h," [0038]) and an endoscopic system I/F (further composing "keyboard I/F 6i").

[12] With regard to claim 5: Shibata further discloses that the information creating portion ("3") is a system controller ("3") provided in an operating room, and the system controller includes a CPU ("CPU 3a" [0040]), a communication I/F ("communication interface 3i,"0040], a centralized operation panel I/F (for example, "keyboard I/F 3h," [0040]), a display I/F ("VRAM 3d," [0040]), an anesthesia-apparatus related system I/F (composing "communication I/F 3i," [0040]) and a storage device (for example, "ROM 3b," [0040]).

[13] With regard to claim 6: Shibata further discloses that the information creating portion ("3") transfers information of the endoscopic system ("2") to the hospital network ("database") through the anesthesia-apparatus related system ("4") and

stores the information in the server.

[14] With regard to claim 7: Shibata further discloses that, when information of the anesthesia-apparatus related system ("4") indicates an abnormal value, the information creating portion ("3") associates the information indicating the abnormal value with the information of the endoscopic system ("2"), transfers to the hospital network ("database") and stores in the server. (The above is prescribed by Shibata without regard to the 'normality' of the data, therefore anticipating the claim in the case of an "abnormal value.")

[15] With regard to claims 8, 10, 12 & 17: Shibata further discloses:

[15a] an information transfer select portion (composing "biological information management window 28a," [0058]) for selecting whether or not information of the anesthesia-apparatus related system ("4") is transferred to a recording device provided in a server connected to the hospital network ("database");

[15b] an information-to-be-recorded select portion (further composing "biological information management window 28a," [0058]) for selecting whether or not the information of the anesthesia-apparatus related system ("4") is added to the storage device of the server connected to the hospital network ("database");

[15c] an information-to-be-recorded checking portion (further composing "biological information management window 28a," [0058]) for checking the

information of the anesthesia-apparatus related system ("4"), which is selected in the information-to-be-recorded select portion; and

[15d] an information-to-be-recorded add portion (further composing "biological information management window 28a," [0058]) for registering the information of the anesthesia-apparatus related system ("4"), which is checked in the information-to-be-recorded checking portion, with the recording device of the server connecting to the hospital network ("database").

[16] With regard to claim 9: Shibata further discloses that the information creating portion ("3") has a patient information input portion ("patient information window 22a," [0052]) for receiving inputs of patient information and adds information of the anesthesia-apparatus related system ("4") to patient information input through the patient information input portion.

[17] With regard to claims 11, 13, 18 & 19: Shibata discloses:

[17a] an upper limit value/lower limit value input portion ("boundary value setting section," [0048], executing "manual setting step S35," [0067]) for being used to input an upper limit value and lower limit value of information of the anesthesia-apparatus related system ("4");

[17b] an abnormality detecting portion ("comparing section," [0048]) for detecting an abnormality of the anesthesia-apparatus related system ("4") based on the upper limit value and lower limit value input by the upper limit

value/lower limit value input portion;

[17c] a function-to-be-linked select portion for, when an abnormality of the anesthesia-apparatus related system ("4") is detected by the abnormality detecting portion, selecting a function ("warning can be displayed on the display 4p," [0048]) within the endoscopic system ("2") to be recorded in connection with the abnormality of the anesthesia-apparatus related system ("4");

[17d] an abnormality recording portion ("image filing apparatus 3," as noted above) for implementing a function within the endoscopic system ("2") selected in the function-to-be-linked select portion and recording the abnormality of the anesthesia-apparatus related system ("4"); and

[17e] a filing portion ("image filing apparatus 3") for filing information before and after the detection of the abnormality recorded by the abnormality recording portion.

[18] With regard to claim 14: Shibata further discloses a code managing portion for assigning a warning code ("warning ... displayed on the display 4p," as noted above) to the information before and after the abnormality detection filed by the filing portion; and an abnormality registration portion for sending to the endoscopic system ("2") and registering with the endoscopic system ("2") the information before and after the abnormality detection having the warning code assigned by the code managing portion ("values recorded with an attached warning flag at the

time of image recording, which are higher than a set maximum value or lower than a set minimum value are displayed in a color different from that used for normal values or are displayed with half-tone dot meshing as shown in FIG. 11," [0083]).

[19] With regard to claim 15: Shibata discloses that the information creating portion ("3") has a determination portion for determining whether or not a predetermined period of time has passed from the record of the information before and after the abnormality detection in the abnormality recording portion and for determining whether or not a predetermined period of time has passed from the detection of an abnormality of the anesthesia-apparatus related system ("4") by the abnormality detecting portion ("an interval for recording biological information is set in step S38," [0070]).

[20] With regard to claim 16: Shibata discloses an endoscopic surgical system, comprising: an anesthesia-apparatus related system ("4") having an anesthesia information recording portion for chronologically and sequentially recording anesthesia-related information relating to anesthesia in an operation; an endoscopic system ("2") having an image recording portion for chronologically and sequentially recording operated-part image information of a patient; a communication portion for communicating between the anesthesia-apparatus related system ("4") and the endoscopic system ("2"); an image-read-out control portion provided in the endoscopic system ("2") for reading out and outputting to the communication portion the operated-part image information recorded in the image recording portion based on time information communicated from the

anesthesia-apparatus related system ("4") to the endoscopic system ("2") by the communication portion; and a recording control portion provided in the anesthesia-apparatus related system ("4") for controlling the anesthesia information recording portion to record the operated-part image information sent from the endoscopic system ("2") to the anesthesia-apparatus related system ("4") through the communication portion under the control of the image-read-out control portion in connection with the anesthesia-related information of a same patient.

Conclusion

[21] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Oka (5,785,652) and Hamano (5,894,322) separately disclose patient data filing systems that integrate images with biological monitoring information.

[22] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.

[23] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.

[24] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. DVORAK
SUPERVISORY PATENT EXAMINER
3700